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and to defeat a recovery on her part. But no such facts are found in this case, and there is certainly no presumption that any such relation existed. It was merely the ordinary social and domestic relationship involved when husband and wife are travelling together. * * * from the mere marital relationship the contributory negligence of the husband is not to be imputed to the wife." This case seems to be in line with the majority of recent cases involving the question, and it is believed presents the best view on reason and principle. *Gaffney v. City of Dixon*, 157 Ill. App. 589; *Southern Ry. Co. v. King*, 128 Ga. 383; *Louisville Ry. Co. v. McCarthy*, 129 Ky. 814 (followed in *City of Louisville v. Zoeller*, 155 Ky. 192); *Knoxville Ry. & Light Co. v. Vangilder*, 132 Tenn. 487; *Senft v. West. Md. Ry. Co.*, 246 Pa. 446. In none of these cases, however, does the question of joint enterprise seem to have been raised. But in the case of *Fisher v. Ellston*, 174 Ia. 364, the court discusses that proposition at some length, in holding that the marital relation is not sufficient to make the travelling a joint enterprise, and that the husband's contributory negligence could not be imputed to the wife. The problem raised in the principal case is discussed in a note in 33 HARV. L. R. 313. On question of joint enterprise in general, see notes in 5 IA. L. B. 121 and 27 YALE L. J. 565. It cannot be denied that there is some authority holding a contrary doctrine to the principal case. See an excellent review of the cases in note in 8 L. R. A. (n. s.) 656. But this case would seem to present a sounder view and one more in accord with reason and justice.

PUBLIC UTILITIES—CONSTITUTIONALITY OF ACT REGULATING RATES OF PRIVATE COMPANIES BUT NOT OF COMPETING MUNICIPALLY OWNED PLANTS.—Bill in equity by a private gas and electric company to restrain the city from producing and selling electricity to private users without first filing a schedule of rates as required by law of private companies. *Held*, affirming 292 Ill. 236, that plaintiff was not denied equal protection of the law by a statute making the rates of privately owned, but not of municipally owned, utilities subject to the approval of the commission. *Springfield Gas and Electric Co. v. Springfield* (U. S., 1921), Adv. O. 38.

In a very concise opinion, without the citation of a case, Mr. Justice Holmes upholds as reasonable the classification in the Illinois Municipal Ownership Act and Public Utilities Act of the public utilities as privately owned and municipally owned. One is organized for private ends, for profit; the other for public ends, for the public welfare. It has never been doubted that the constitutional guarantee of equal protection of the law permitted a classification of persons subject to act of legislature; the only serious disputes have been over whether a given classification was reasonable, and therefore lawful. If reasonable, a classification is not unlawful because the act does not apply to all in the same class or line of business. *German Alliance Ins. Co. v. Lewis*, 233 U. S. 389; *Ex parte Girard* (Calif., 1921), 200 Pac. 593. The fear of ruinous competition was the animus of the attack in the instant case. In a proper case a competitor may invoke the aid of a court to entirely restrain the rival business. *Brooklyn City R. Co. v. Whalen*, 182 N. Y. S. 283, affirmed 229 N. Y. 570; *Memphis St. Ry. Co. v. Rapid Transit Co.*, 133

Tenn. 99 (jitney-bus case); *F. & M. Coöp. Tel. Co. v. Boswell Tel. Co.*, 187 Ind. 371, but it does not follow that relief will be given if the rival utility has been properly authorized to do business and is acting within such authority. *New Hartford Water Co. v. Village Water Co.*, 87 Conn. 183; nor if the complaining company has not itself been lawfully authorized to furnish service. *Rural Home Tel. Co. v. Ky. and Ind. Tel. Co.*, 128 Ky. 209. This protection from injury to its business by competition not lawfully authorized is like the analogous cases in which the legality of a differentiation in unit rates for different kinds of uses of the same utility—*e. g.*, the rates for gas used for fuel, or power, or light—is made to depend upon whether the different classes of users are in competition so that the discrimination in rates might injure the business of those charged the higher rate. *Boerth v. Detroit City Gas Co.*, 152 Mich. 654. It is certain that many statutes have been passed applying to private and not to municipal corporations, but which the legislature might have applied alike to both. It is usually a matter that addresses itself to legislative discretion, and the courts will interfere only in a clear case of abuse of that discretion. *Feemster v. Tupelo*, 121 Miss. 733. In any case, there can be no doubt that the supreme legislative body of the state has the power, if it chooses to exercise it, of regulating charges for the service of municipally owned utilities. *Bartlesville v. Corporation Com.* (Okl., 1921), 199 Pac. 396, and it would seem to follow that it can if it prefers leave the fixing of rates to the municipality itself. The principal case so holds. It would be strange indeed if the legislature may fix rates of a private corporation for a public service, and may allow a municipality to fix its own rates for service furnished by it, and yet it should turn out that a statute so providing should be found unconstitutional as a denial of equal protection of the laws. Neither the Illinois nor the federal supreme court found it necessary to cite authorities on this point.

REMAINDERS TO A CLASS—WHEN CLASS DETERMINED.—There was a legacy "to my sister for life and at her death the amount to be equally divided between her children." At the time of the testator's death the sister had four children living, but one died during the mother's life, leaving two children of her own who are plaintiffs in this action. *Held*, the remainder vested at the death of the testator and the plaintiffs are entitled to one-fourth of the property. *Powell v. McKinney* (Ga., 1921), 108 S. E. 231.

The intention of the testator or grantor should control as to when the class is to be determined and the remainders vested, providing his intention does not conflict with the rule against remoteness or other absolute rules of law. The courts generally say his intention does control. *Crossley v. Leslie*, 130 Ga. 782. But the courts' interpretation of the words used is likely to be nearly as rigid as an absolute rule of law. In accordance with the rule that the law favors vested interests, it is said the instrument will, if possible, be construed to show an intent to determine the class as of the time when the instrument takes effect—*i. e.*, when the deed is delivered or the testator dies. 1 *TIFFANY ON REAL PROPERTY* (Ed. 2) 497. In grants or devises of the type "to A for life" and "then," or "upon," or "after," or